

ORDINANCE NO. 7

SERIES 2017

AN EMERGENCY ORDINANCE OF THE CRESTED BUTTE TOWN COUNCIL AUTHORIZING THE REDEMPTION OF 721 BUTTE AVENUE, UNIT 1, TOWN OF CRESTED BUTTE PURSUANT TO § 38-38-302, ET SEQ. OF THE COLORADO REVISED STATUTES IN AN AMOUNT NOT TO EXCEED \$125,000.00

WHEREAS, the Town of Crested Butte, Colorado (the "**Town**") is a home rule municipality duly and regularly organized and now validly existing as a body corporate and politic under and by virtue of the Constitution and the laws of the State of Colorado;

WHEREAS, the Town Council is authorized pursuant to §§ 31-25-301 and 302, C.R.S., as amended, Article XX of the Colorado Constitution and the Town of Crested Butte Charter to acquire interests in land necessary, suitable or proper for public interests;

WHEREAS, Unit 1, Poverty Gulch Condominiums, according to the Condominium Map recorded at Reception No. 498092 and the Condominium Declaration of Poverty Gulch Condominiums recorded at Reception No. 498091 (the "**Property**") is currently in foreclosure proceedings subject to a Notice of Election and Demand for Sale by the Public Trustee of the County of Gunnison (the "**Public Trustee**") dated September 16, 2016;

WHEREAS, the Town has filed a Notice of Intent to Redeem and Redemption Amount Statement with the Public Trustee dated March 20, 2017 (the "**Redemption Notice**");

WHEREAS, pursuant to the Redemption Notice and §§ 38-38-302, *et seq.* C.R.S. (the "**Foreclosure Statute**"), the Town has the right to redeem the Property (the "**Redemption Right**");

WHEREAS, the Public Trustee's Certificate of Purchase dated March 8, 2017 and recorded at Reception No. 645290 (the "**Certificate of Purchase**") is currently held by Mindy Sturm (the "**Sturm**") and is subject to the Town's Redemption Right;

WHEREAS, the Town Staff has recommended that the Town redeem the Property pursuant to its Redemption Right by paying the Public Trustee the redemption amount as provided by Sturm pursuant to the Foreclosure Statute and as provided in **Exhibit "A"** attached hereto;

WHEREAS, the Town has spent public funds in the acquisition and development of properties, including, without limitation, the Property, for the purposes of establishing, creating and maintaining affordable housing;

WHEREAS, establishing, creating and maintaining affordable housing is a critical mission of the Town Council and a critical need of the residents of Crested Butte;

WHEREAS, the Town Council finds that it is in the best interest of the health, peace, safety and welfare of the residents and visitors of Crested Butte to redeem the Property pursuant to its Redemption Right by paying the Public Trustee the redemption amount as provided by Sturm pursuant to the Foreclosure Statute and as provided in **Exhibit "A"** so that the Town may ensure that the terms, conditions, restrictions, agreements and obligations as contained in Town of Crested Butte 1995 Affordable Housing Guidelines Butte Avenue and Seventh Street Deed Restriction recorded on November 17, 1999 at Reception No. 497829; Town of Crested Butte 1995 Affordable Housing Guidelines (1999 Edition) recorded December 20, 1999 at Reception No. 498499, amended and replaced by Amended and Restated Affordable Housing Guidelines recorded July 18, 2013 at Reception No. 621504 and Acknowledgment, Consent and Agreement recorded August 5, 2013 at Reception No. 621881 (collectively, the "**Deed Restriction**") remain an encumbrance on the Property that runs with the Property in perpetuity;

WHEREAS, the Town Council hereby finds that it is necessary and suitable, and in the best interest of the Town and the health, peace, safety and welfare of the residents and visitors of Crested Butte, that the Town redeem the Property pursuant to its Redemption Right as described above and as set forth below; and

WHEREAS, the Town Council hereby finds that this ordinance and the actions authorized hereunder are of an emergency nature because protecting the Deed Restriction by way of the Town redeeming the Property pursuant to its Redemption Right as described above requires that the Town pay the Public Trustee the redemption amount as provided as provided in **Exhibit "A"** by 12:00 P.M., MT on Tuesday, April 4, 2017 is time limited, and for such reason, and in support of the Town's protection of affordable housing established, created and maintained by public funds, it is necessary and appropriate that this ordinance take immediate effect immediately upon adoption.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CRESTED BUTTE, COLORADO, THAT,

Section 1. Incorporation. The facts and findings set forth in the recitals above are material terms of this ordinance and are hereby incorporated herein as material terms and conclusive findings of fact of the Town Council. Capitalized terms shall have the meanings ascribed to such terms hereinabove.

Section 2. Authorization to Redeem. The Town Council, pursuant §§ 31-25-301 and 302, C.R.S., as amended, Article XX of the Colorado Constitution and the Town of Crested Butte Charter, hereby authorizes the Town Manager and the Town Attorney to redeem the Property by paying the Public Trustee the redemption amount as provided by Sturm pursuant to the Foreclosure Statute and as provided in **Exhibit "A"** by 12:00 P.M., MT on Tuesday, April 4, 2017, and for a sum in the foreclosure proceedings not to exceed \$125,000.00. Such authorized amount includes, without limitation, \$9,236.22 paid to the Poverty Gulch Condominiums Homeowners Association and \$12,000.00 paid to H2 Properties, Inc. previously authorized and approved by motions of the Town Council at regular and special meetings of the Town Council on March 20, 2017 and March 22, 2017, respectively, plus costs and expenses in connection with exercising the Redemption Right and acquiring title to the Property by way of a confirmation deed to be issued by the Public Trustee, and pursuant thereto, hereby authorizes and directs the Town Manager and the Town Attorney to give and execute any and all documents and take all actions necessary and advisable to consummate said transactions. All actions of the Town

Council in furtherance thereto and included in motions of the Town Council to date as aforesaid are hereby ratified and confirmed.

Section 3. Appropriation of Funds. The Town Council hereby appropriates the sum not to exceed \$125,000.00 plus costs and expenses in connection with exercising the Redemption Right and acquiring title to the Property by way of a confirmation deed to be issued by the Public Trustee out of the Affordable Housing Fund, and authorizes the expenditure of said sum for such purpose.

Section 4. Effective Upon Adoption; Emergency. The Town Council hereby finds that for the immediate preservation of the health, peace, safety and welfare, for the reasons stated hereinabove, it is necessary and appropriate that this ordinance be of an emergency nature and take effect immediately upon adoption.

Section 5. Severability. If any section, sentence, clause, phrase, word or other provision of this ordinance is for any reason held to be unconstitutional or otherwise invalid, such holding shall not affect the validity of the remaining sections, sentences, clauses, phrases, words or other provisions of this ordinance, or the validity of this ordinance shall stand notwithstanding the invalidity of any section, sentence, clause, phrase, word or other provision.

Section 6. Savings Clause. Except as amended hereby, the Crested Butte Municipal Code, as amended, shall remain valid and in full force and effect. Any provision of any ordinance previously adopted by the Town that is in conflict with this ordinance is hereby repealed as of the enforcement date hereof.

INTRODUCED, READ AND ADOPTED BY THE TOWN COUNCIL IN PUBLIC HEARING THIS 3rd DAY OF April, 2017.

RATIFIED BY THE TOWN COUNCIL IN PUBLIC HEARING THIS 10th DAY OF April, 2017.

TOWN OF CRESTED BUTTE, COLORADO

By: Glenn Michel
Glenn Michel, Mayor

ATTEST:

Lynelle Stanford
Lynelle Stanford, Town Clerk

(SEAL)



EXHIBIT "A"

[attach Public Trustee Lienor Redemption Statement here]

Gunnison County Treasurer/Public Trustee
P.O. Box 479
Gunnison, CO 81230

Town of Crested Butte, Colorado, a Colorado home rule municipality
C/O Garfield & Hecht, P.C.
PO Box 2919
Crested Butte, CO 81224

Phone: (970)349-6698 Fax:

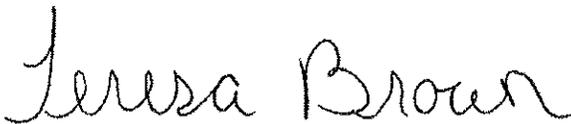
FORECLOSURE # 2016-014
721 BUTTE AVENUE, UNIT I
CRESTED BUTTE CO 81224

Date: 3/27/2017

Lienor Redemption Statement

** This amount is estimated to be valid until NOON on 4/4/2017 per C.R.S.38-38-302(4). When you intend to bring the funds, you MUST check with our office via email or fax for an updated figure that will include interest due through the date of payment. The Public Trustee's office CANNOT accept personal checks, money orders, payroll checks or third party checks endorsed over to it. Pursuant to law, all moneys payable to a Public Trustee must be in the form of a certified check, cashier's check, teller's check or official teller's or cashier's check as defined in Colorado law, or in the form of cash or electronic funds transfer. Checks payable to the Public Trustee must be certified or issued by a Colorado or Federally chartered bank, savings and loan association or credit union licensed to do business in Colorado.

Lien Amount		\$93,000.00
Interest Rate		6.1250%
Per Diem		\$15.61
# of Days		28
Total Interest		\$437.08
Advances	WIRE FEE	\$35.00
Advances	TITLE O&E	\$50.00
Advances	TITLE COMMITMENT	\$300.00
Advances	ATTORNEY FEE 1	\$2,632.50
Advances	ATTORNEY FEE 2	\$581.50
Sub Total		\$97,036.08
Certificate of Redemption		\$43.00
Wire Fee		\$0.00
Total **		\$97,079.08



Teresa Brown, Deputy Public Trustee